

From: Jeremy Horwitz
To: Microsoft ATR
Date: 11/17/01 3:56am
Subject: Devastating Settlement

As a longtime observer of Microsoft's software development and business tactics, I feel compelled to write and express my sincere shock and disappointment at the limited scope of the proposed settlement tentatively reached with Microsoft. That untold millions of tax dollars could have been spent to reach a conclusion such as this -- political motivations aside -- is, from my perspective, an indictment of the entire antitrust enforcement mechanism of the FTC.

What results from a settlement such as this one is a Microsoft no worse, and in fact considerably better, than the one that threatened or tore smaller companies to shreds only several years ago. All of Microsoft's core applications, from the Office suite (Word, Powerpoint, Excel, and Outlook) to Internet Explorer, and Media Player have become so tightly integrated with Windows as to be the near-exclusive choices of PC users. The Justice Department and FTC's inactions during the course of this prosecution have resulted in the continued bundling of products that were at one point competing with other companies' crown jewels -- Netscape Navigator and RealPlayer -- products that because of Microsoft's dominance are now on the cusp of irrelevance. Microsoft today is stronger than ever, its competitors are weaker than ever, and its products -- as evidenced from their latest licensing agreements and pricing structures for Windows -- are more expensive and restrictive than ever.

By focusing in a strict textual sense on bullying of Microsoft's competitors, e.g. by telling them that they "shall not retaliate," you ignore the truth of their actions -- through monopolistic power, Microsoft need not retaliate against those who threaten them. They can give away products that render their biggest competitive threats (and your greatest agency concerns) completely irrelevant if not bankrupt. Frankly, the specific phrases and terms used your proposed agreement uses are unbelievable. Look at Microsoft's history -- their famed case against Apple, their innumerable one-sided development deals, and their previous history of working against their own distributors and customers. This is a company that

tests and twists the meaning of every word in every written agreement they sign. Face it: they pay some of the world's best software programmers and lawyers a lot more money than you do, and they will figure out ways around a document as hastily drafted as this one.

Force Microsoft to sell a Windows stripped of Internet Explorer, Media Player, and Messenger. Force the price to be one third the price of what they sell the entire suite for. And allow Microsoft's competitors -- AOL/Netscape, Real, Apple Computer, and many smaller companies with great ideas -- to have a fighting chance to succeed in the marketplace again. This is what the FTC and Justice Department are charged to do under our federal antitrust laws.

Yours,

J. Horwitz

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